

641—85.9(135) Right of appeal.

85.9(1) The patient, the person who filed the application, or a correspondent may appeal the local board's decision to the department. The appeal must be made before the date and time that the consent becomes effective. The person appealing shall notify the local board or the department of the appeal. The notice of the appeal shall be in writing or by telephone followed by a written appeal to the department. If the appeal is initially made by telephone, the written appeal to the department shall be postmarked within 48 hours of the telephone notice. The written appeal shall state the reason for the appeal. If the initial appeal is made to the local board, the local board representative shall immediately notify the department and the health care provider. If the initial appeal is made to the department, the department representative shall immediately notify the local board and the health care provider.

85.9(2) Upon receipt of the notice of appeal, the local board shall immediately provide a copy of the record of the case to the department. The department shall review the record to determine whether the determination by the local panel is supported by substantial evidence. The department shall also review new information which is submitted regarding the case. The department's decision shall be based on a review of the record and a review of any new information and shall be made in accordance with the provisions for local panel determination in rules 641—85.7(135) and 641—85.8(135). The department's decision shall be promptly sent by certified mail, return receipt requested, or otherwise provided by any other means that will provide more timely or reliable written notice to: the patient, the person filing the appeal, the person who filed the application and the chairperson of the local board. If any of these persons are dissatisfied with the department's decision, an appeal may be taken in the manner provided by Iowa Code chapter 17A.

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